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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,735	12/11/2003	Marius Ghercioiu	5150-80501	5641
7590 Jeffrey C. Hood Meyertons, Hood, Kivlin, Kowert & Goetzel PC P.O. Box 398 Austin, TX 78767			EXAMINER AUGUSTINE, NICHOLAS	
			ART UNIT 2179	PAPER NUMBER
			MAIL DATE 11/28/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/733,735

Applicant(s)

GHERCIOIU ET AL.

Examiner

Nicholas Augustine

Art Unit

2179

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4, 6 and 8-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4, 6 and 8-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

- A. This action is in response to the following communications: Amendment filed: 09/11/2007. This action is made **Final**.
- B. Claims 1,4,6 and 8-30 remain pending.
- C. Claims rejected under 35 USC 101 have been withdrawn due to amendment.

Claim Objections

- a. Claim 4 objected to because of the following informalities: depends from cancelled claim 2. Appropriate correction is required.

Claim Rejections - 35 USC § 112

- 1. Claims 11-12,22-23 and 26-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
- 2. In regard to Claims 11-12,22-23 and 26-27 contain the trademark/trade names IrDA and Bluetooth. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See Ex parte Simpson, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods

themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe program code and, accordingly, the identification/description is indefinite. For example and without limitation, the trademark Bluetooth and IrDA comprises a suite of products, applications, versions, drivers and software plug-ins and the Examiner cannot determine from the claim limitations the scope of the claim when a trademark is claimed since claiming the trademark comprises an array of products and services.

<http://en.wikipedia.org/wiki/Irda>

<http://en.wikipedia.org/wiki/Bluetooth>

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1,4,6 and 8-30 are rejected under 35 U.S.C. 103(a) as being obvious over Kodosky (US 6,173,438), herein referred to as "Kodosky" in view of Ghercioiu (US 2004/0010734), herein referred to as "Ghercioiu".

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(I)(1) and § 706.02(I)(2).

As for independent claims 1 and 28, Kodosky teaches a computer-implemented method and corresponding medium for programming an embedded device, the method comprising, creating a graphical program, wherein the graphical program specifies a function to be performed by the embedded device; storing the graphical program on a mobile computer; and transmitting the graphical program from the mobile computer to the embedded device over a serial link; wherein after said transmitting, the embedded device is operable to execute the graphical program to perform the specified function (figure 6-9 and col.14, lines 58-67 and col.16, lines 45, 47, 53-55). Kodosky does not specifically teach DAQ card having sensors. It is commonly known in the art that DAQ cards for data acquisition to have sensors thereon, therefor it would have been obvious to one of ordinary skill in the art to presume the DAQ card of Kodosky to have sensors (http://en.wikipedia.org/wiki/Data_acquisition). Kodosky does not specifically teach a use of a personal digital assistant (PDA) nor an embedded sensor device that includes one or more sensors. However in the same field of endeavor Ghercioiu teaches wherein the embedded sensor device comprises one or more sensors, and wherein the embedded sensor device does not include a display (par.60, 90 and 326); using a PDA for the method of programming an embedded sensor device (par.76). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Ghercioiu into Kodosky, because both Ghercioiu and Kodosky teach methods of embedded programming from the same assignee.

As for dependent claim 4, Kodosky teaches the method of claim 2. Kodosky does not specifically mention wherein the sensor interface comprises a compact sensor interface between approximately 3 cm.times.3 cm and approximately 6 cm.times.6 cm. Kodosky does not exactly mention a size. However it would have been obvious to one of ordinary skill in the art to achieve any desired size of a compact sensor interface (col.23, lines 16-22).

As for dependent claim 6, Kodosky teaches the method of claim 1. Kodosky does not expressly mention wherein said creating the graphical program is performed on the mobile computer. Kodosky mentions working on a computer but does not expressly mention it being a mobile computer; it would have been obvious to one of ordinary skill in the art at the time of the invention to realize the portability to any computing environment (col.7-8 and col.23, lines 16-22).

As for dependent claim 8, Kodosky teaches the method of claim 1, wherein the serial link comprises a serial cable (col.8, line 4).

As for dependent claim 9, Kodosky teaches the method of claim 1. Kodosky does not expressly mention wherein the serial link comprises a wireless serial link; however it would have been obvious at the time of the invention to implement common practice serial implantations such as wireless, 802.11a,b, g, n, infrared serial link etc. (col.23, lines 16-23 and col.8, lines 1-15).

As for dependent claim 10, Kodosky teaches the method of claim 9, wherein the wireless serial link comprises an infrared serial link (note the analysis of claim 9).

As for dependent claim 11, Kodosky teaches the method of claim 10, wherein the infrared serial link comprises an IrDA serial link (note the analysis of claim 9).

As for dependent claim 12, Kodosky teaches the method of claim 9, wherein the wireless serial link comprises a Bluetooth serial link or an 802.11 serial link (note the analysis of claim 9).

As for dependent claim 13, Kodosky teaches the method of claim 1, further comprising, analyzing the graphical program for function dependencies to generate required modules; analyzing the graphical program to determine an execution sequence; and generating a flatfile based on the required modules and execution sequence, wherein the flatfile contains the functionality of the graphical program (figure 6).

As for dependent claim 14, Kodosky teaches the method of claim 13, wherein said transmitting the graphical program from the mobile computer to the embedded device over a serial link comprises, transmitting the flatfile to the embedded device over the serial link (note the analysis of claim 9 and figure 7). Kodosky does not specifically mention the use of a flatfile, however in the same field of endeavor Ghercioiu does

(par.74, 101,121 and 123). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Ghercioiu into Kodosky, because both Ghercioiu and Kodosky teach methods of embedded programming from the same assignee.

As for dependent claim 15, Kodosky teaches the method of claim 14, further comprising, the embedded device processing the flatfile to generate an executable, wherein, in the embedded device being operable to execute the graphical program to perform the specified function, the embedded device is operable to execute the executable to perform the specified function (figure 11; note the analysis of claim 14)

As for dependent claim 16, Kodosky teaches the method of claim 1, further comprising, the embedded device executing the graphical program to perform the function (figure 11).

As for dependent claim 17, Kodosky teaches the method of claim 16, wherein the embedded device executing the graphical program generates data, the method further comprising, the embedded device sending the data to the mobile computer; and the mobile computer displaying the data (note the analysis of claim 6).

As for dependent claim 18, Kodosky teaches the method of claim 17, wherein the embedded device sending the data to the mobile computer; and the mobile computer

displaying the data are performed using a Front Panel Protocol (figure 9).

As for dependent claim 19, Kodosky teaches the method of claim 17, wherein said sending the data to the mobile computer comprises sending the data to the mobile computer over a serial cable (note the analysis of claim 8).

As for dependent claim 20, Kodosky teaches the method of claim 17, wherein sending the data to the mobile computer comprises sending the data to the mobile computer over a wireless serial link (note the analysis of claim 9).

As for dependent claim 21, Kodosky teaches the method of claim 20, wherein the wireless serial link comprises an infrared serial link (note the analysis of claim 9).

As for dependent claim 22, Kodosky teaches the method of claim 10, wherein the infrared serial link comprises an IrDA serial link (note the analysis of claim 9).

As for dependent claim 23, Kodosky teaches the method of claim 9, wherein the wireless serial link comprises a Bluetooth serial link or an 802.11 serial link (note the analysis of claim 9).

As for dependent claim 24, Kodosky teaches the method of claim 16, wherein the embedded device executing the graphical program generates data, the method further

comprising, executing a different graphical program on the mobile computer, wherein said executing the different graphical program comprises, performing a discovery operation to detect and establish communications with the embedded device; retrieving the data from the embedded device via a wireless serial transmission medium; and displaying the data on the mobile computer (note the analysis of claim 1-23 above).

As for dependent claim 25, Kodosky teaches the method of claim 24, wherein the wireless serial transmission medium comprises an infrared serial link (note the analysis of claim 9).

As for dependent claim 26, Kodosky teaches the method of claim 10, wherein the infrared serial link comprises an IrDA serial link (note the analysis of claim 9).

As for dependent claim 27, Kodosky teaches the method of claim 9, wherein the wireless serial link comprises a Bluetooth serial link or an 802.11 serial link (note the analysis of claim 9).

As for dependent claim 29, Kodosky teaches a system for programming an embedded device, the system comprising, a mobile computer system, comprising, a processor; a memory medium coupled to the processor, wherein the memory medium stores the program and a plurality of components of a program execution system, wherein the memory medium also stores program instructions executable to analyze the program to

determine a subset of the plurality of components required for execution of the program; and a display coupled to the processor and memory medium; and an embedded device coupled to the computer system via a serial transmission medium, wherein the embedded device comprises, a processor; and a memory medium coupled to the processor, wherein the memory medium stores a minimal execution system; wherein the memory medium of the mobile computer system further stores program instructions which are executable by the processor of the computer system to, transmit the program and the subset of the plurality of components to the embedded device over the serial transmission medium (note the analysis of claim 2); wherein the minimal execution system is executable by the processor of the embedded device to execute the program using the subset of the plurality of components; and wherein the mobile computer is operable to receive data from the embedded device and display the data on the display (note the analysis of claims 1-28 above).

As for independent claim 30, Kodosky teaches a hand-held computer, comprising: a processor; a memory medium coupled to the processor, wherein the memory medium stores a graphical program, wherein the graphical program specifies a function to be performed by a sensor interface device; and a display coupled to the processor and memory medium; wherein the memory medium further stores program instructions which are executable by the processor to: analyze the graphical program; convert the graphical program into a format suitable for transmission over a serial link to the sensor interface device (note the analysis of claim 2 above); and transmit the converted

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graphical program from the hand-held computer to the sensor interface device over the serial link; wherein after said transmitting, the sensor interface device is operable to execute the converted graphical program to perform the specified function; and wherein the memory medium further stores program instructions which are executable by the processor to: receive data from sensor interface device during execution of the converted graphical program; and display the received data on the display (not the analysis of claims 1-28 above).

(Note:) It is noted that any citation to specific, pages, columns, lines, or figures in the prior art references and any interpretation of the references should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. In re Heck, 699 F.2d 1331, 1332-33, 216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting In re Lemelson, 397 F.2d 1006, 1009, 158 USPQ 275, 277 (CCPA 1968)).

Response to Arguments

Applicant's arguments with respect to claims 1,4,6 and 8-30 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

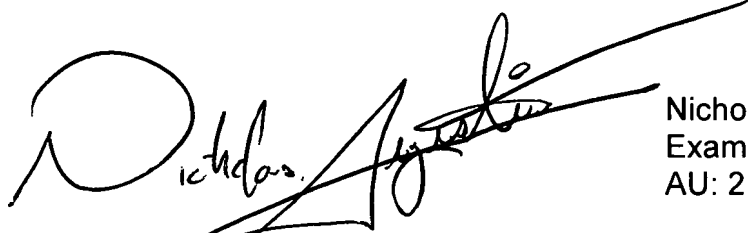
Inquires

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas Augustine whose telephone number is 571-270-1056. The examiner can normally be reached on Monday - Friday: 7:30- 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on 571-272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

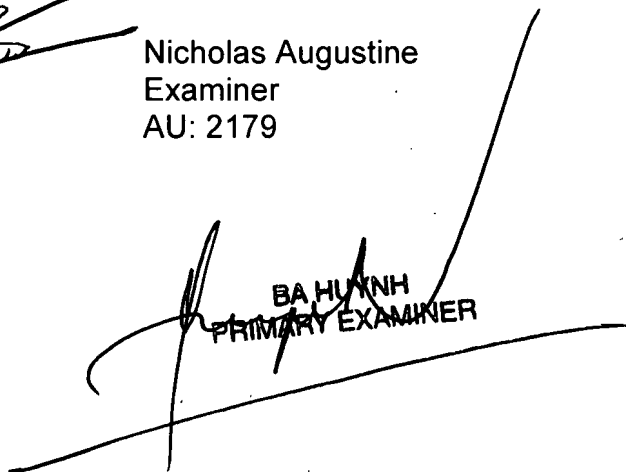
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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A large, stylized handwritten signature in black ink, appearing to read "Nicholas Augustine".

Nicholas Augustine
Examiner
AU: 2179

N. Augustine
November 21, 2007

A handwritten signature in black ink, appearing to read "BA HUYNH".
BA HUYNH
PRIMARY EXAMINER